

Assembly Bill No. 1813

CHAPTER 725

An act to amend Section 17072.13 of the Education Code, and to add Section 25358.6.1 to the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 25, 2000. Filed
with Secretary of State September 27, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1813, Wildman. School facilities: site contamination funding: hazardous substance contracts.

(1) Existing law authorizes the State Allocation Board to provide 50% of the costs of the evaluation of hazardous substances at a site to be acquired by a school district and costs relating to removal of the hazardous substances, not to exceed a prescribed amount, and to provide funding for up to 100% of those costs by a school district eligible for financial hardship assistance, not to exceed a prescribed amount. Existing law further authorizes a school district that meets environmental hardship criteria, as specified, to apply to the board for site acquisition funding prior to approval of construction plans by the Division of the State Architect and State Department of Education.

This bill would provide that site acquisition funding for a school district that meets environmental hardship criteria is subject to the prescribed funding limits for the evaluation and removal of hazardous substances at sites to be acquired by a school district, and may not result in an increase in those funding limits to a school district.

(2) Existing law authorizes the Department of Toxic Substances Control to prequalify bidders for remedial or removal actions taken pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act, by adopting and applying a uniform system of rating bidders.

Existing law requires a state agency head to select professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms pursuant to specified procedures. Existing law imposes specified requirements upon state agencies expending funds for capital outlay projects.

This bill would, notwithstanding those provisions, authorize the department to advertise and award contracts for engineering, architectural, environmental, landscape architectural, construction project management, or land surveying services pursuant to the

hazardous substance act or the law regulating hazardous waste, if the contract is individually in an amount equal to, or less than, \$1,000,000. The bill would specify procedures for the selection and ranking of prequalified firms and would authorize the department to adopt regulations to implement those procedures.

The people of the State of California do enact as follows:

SECTION 1. Section 17072.13 of the Education Code is amended to read:

17072.13. In addition to the amounts provided pursuant to Sections 17072.10 and 17072.12, the board may provide funding as follows:

(a) For 50 percent of the cost of the evaluation of hazardous materials at a site to be acquired by a school district and for 50 percent of the other response costs of the removal of hazardous waste or solid waste, the removal of hazardous substances, or other remedial action in connection with hazardous substances at that site. Except as provided in subdivision (b), the funding provided pursuant to this section may not exceed 50 percent of a number calculated by subtracting the school district's cost of the site from what the appraised value of the site would be after the response action is completed.

(b) The board may provide funding for up to 100 percent of the cost of the evaluation of hazardous materials at a site to be acquired by a school district eligible for financial hardship assistance pursuant to Article 8 (commencing with Section 17075.10) and for up to 100 percent of the other response costs for the site. The funding provided pursuant to this subdivision may not exceed 100 percent of a number calculated by subtracting the school district's cost of the site from what the appraised value of the site would be after the response action is completed.

(c) A school district with a site that meets the environmental hardship criteria set forth in paragraph (1) may apply to the board for site acquisition funding for that site prior to having construction plans for that site approved by the Division of the State Architect and State Department of Education. The site acquisition funding is subject to the funding limits provided in subdivisions (a) or (b) and may not result in an increase in the funding limits available to a school district under this section.

(1) A project is eligible for environmental hardship site acquisition funding if both of the following apply:

(A) The remedial action plan for the site approved by the Department of Toxic Substances Control, pursuant to Section 17213, is estimated by the Department of Toxic Substances Control to take six months or more to complete.

(B) The State Department of Education determines that the site is the best available alternative site.

(2) The initial site-specific reservation pursuant to this subdivision shall be for a period of one year. Extension may be approved in one-year intervals upon demonstration to the State Allocation Board of progress toward acquisition. In the event there is not demonstrable progress, the State Allocation Board shall have the option of rescinding the reservation.

(3) Environmental hardship site acquisition funds approved by the State Allocation Board can be used only for the site identified in the remedial action plan approved by the Department of Toxic Substances Control.

(4) The date that the State Allocation Board approves the environmental hardship site acquisition funding will become the State Allocation Board approval date for the project's construction funding for that site.

(5) A school district may apply to the State Allocation Board for construction funding for the environmental hardship site when the project has received final Division of the State Architect plan approval and final State Department of Education site and plan approval.

(d) The cost incurred by the school districts when complying with any requirement identified in this section are allowable costs for purposes of an applicant under this chapter and may be reimbursed in accordance with Section 17072.12. The site acquisition funding is subject to the funding limits provided in subdivision (a) or (b) and may not result in an increase in the funding limits available to a school district under this section.

(e) The State Allocation Board shall develop regulations that allow school districts with financial hardship site acquisition funding prior to ownership of the site or evidence that the site is in escrow.

SEC. 2. Section 25358.6.1 is added to the Health and Safety Code, to read:

25358.6.1. (a) For purposes of this section, the following definitions shall apply:

(1) "Engineering, architectural, environmental, landscape architectural, construction project management, or land surveying services" includes professional services of an engineering, architectural, environmental, landscape architectural, construction project management, land surveying, or similar nature, as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

(2) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of engineering, architecture, environmental, landscape architecture, construction project management, or land surveying.

(3) “Prequalified list” means a list of engineering, architectural, environmental, landscape architectural, construction project management, or land surveying firms that possess the qualifications established by the department to perform specific types of engineering, architectural, environmental, land surveying services, with each firm ranked in order of its qualifications and costs.

(b) Notwithstanding Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, the department may advertise and award a contract, in accordance with this section, for engineering, architectural, environmental, landscape architectural, construction project management, or land surveying services pursuant to this chapter or Chapter 6.5 (commencing with Section 25100), if the contract is individually in an amount equal to, or less than, one million dollars (\$1,000,000).

(c) The department may establish prequalified lists of engineering, architectural, environmental, landscape architectural, construction project management, or land surveying firms in accordance with the following process:

(1) For each type of engineering, architectural, environmental, landscape architectural, construction project management, or land surveying services work for which the department elects to use this section for advertising and awarding contracts, the department shall request annual statements of qualifications from interested firms. The request for statements of qualifications shall be announced statewide through the California State Contracts Register and publications, internet websites, or electronic bulletin boards of respective professional societies that are intended, designed, and maintained by the professional societies to communicate with their memberships. Each announcement shall describe the general scope of services to be provided within each generic project category for engineering, architectural, environmental, landscape architectural, construction project management, or land surveying services that the department anticipates may be awarded during the period covered by the announcement.

(2) The department shall define a generic project category so that each specific project to be awarded within that generic project category is substantially similar to all other projects within that generic project category, may be within the same size range and geographical area, and requires substantially similar skills and magnitude of professional effort as every other project within that generic project category. The generic categories shall provide a basis for evaluating and establishing the type, quality, and costs, including hourly rates for personnel and field activities and equipment, of the services that would be provided by the firm.

(3) The department shall evaluate the statements of qualifications received pursuant to paragraph (1) and the department shall develop a short list of the most qualified firms that meet the criteria

established and published by the department. The department shall hold discussions regarding each firm's qualifications with all firms listed on the short list. The department shall then rank the firms listed on the short list according to each firm's qualifications and the evaluation criteria established and published by the department.

(4) The department shall maintain prequalified lists of civil engineering, architectural, environmental, landscape architectural, construction project management, or land surveying firms ranked pursuant to paragraph (3) on an ongoing basis, except that no firm may remain on a list developed pursuant to paragraph (3) based on a single qualification statement for more than three years. The department shall include in each prequalified list adopted pursuant to paragraph (3) no less than three firms, unless the department certifies that the scope of the prequalified list is appropriate for the department's needs, taking into account the nature of the work, that the department made reasonable efforts to solicit qualification statements from qualified firms, and that the efforts were unsuccessful in producing three firms that met the established criteria. A firm may remain on the prequalified list up to three years without resubmitting a qualification statement, but the department may add additional firms to that list and may annually rank these firms. For purposes of annual adjustment to the ranking of firms already on the prequalified list developed pursuant to paragraph (3), the department shall rely on that firm's most recent annual qualification statement, if the statement is not more than three years old.

(5) During the term of the a prequalified list developed pursuant to paragraph (3), as specific projects are identified by the department as being eligible for contracting under the procedures adopted pursuant to subdivision (d), the department shall contact the highest ranked firm on the appropriate prequalified list to determine if that firm has sufficient staff and is available for performance of the project. If the highest ranked firm is not available, the department shall continue to contact firms on the prequalified list in order of rank until a firm that is available is identified.

(6) The department may enter into a contract for the services with a firm identified pursuant to paragraph (5), if the contract is for a total price that the department determines is fair and reasonable to the department and otherwise conforms to all matters and terms previously identified and established upon participation in the prequalified list.

(7) If the department is unable to negotiate a satisfactory contract with a firm identified pursuant to paragraph (6), the department shall terminate the negotiations with that firm and the department shall undertake negotiations with the next ranked firm that is available for performance. If a satisfactory contract cannot be negotiated with the second identified firm, the department shall



terminate these negotiations and the department shall continue the negotiation process with the remaining qualified firms, in order of their ranking, until the department negotiates a satisfactory contract. If the department is unable to negotiate a satisfactory contract with a firm on two separate occasions, the department may remove that firm from the prequalified list. The department may award a contract to a firm on a prequalified list that is to be executed, including amendments, for a term that extends beyond the expiration date of that firm's tenure on the prequalified list.

(8) Once a satisfactory contract is negotiated and awarded to a firm from any prequalified list for a generic project category involving a site or facility investigation or characterization, a feasibility study, or a remedial design, for a specific response action or corrective action, including, but not limited to, a corrective action carried out pursuant to Section 25200.10, the department shall not enter into a contract with that firm for purposes of construction or implementation of any part of that same response action or corrective action.

(d) The department may adopt guidelines or regulations as necessary, and consistent with this section, to define the manner of advertising, generic project categories, type, quantity and cost of services, qualification standards and evaluation criteria, content and submittal requirements for statements of qualification, procedures for ranking of firms and administration of the prequalified list, the scope of matters addressed by participation on a prequalified list, manner of notification of, negotiation with, and awarding of contracts to, prequalified firms, and procedures for protesting the award of contracts under this section, or any other matter that is appropriate for implementation of this section,

(e) Any removal or remedial action taken or contracted by the department pursuant to Section 25354 or subdivision (a) of Section 25358.3 is exempt from this section.

(f) This section does not exempt any contract from compliance with Article 4 (commencing with Section 19130) of Chapter 5 of Division 5 of Title 2 of the Government Code.

